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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,533	04/14/2004	Karla Klumpp Berger	1059-003	6532
34060	7590	11/10/2005	EXAMINER	
MICHAEL N. HAYNES 1341 HUNTERSFIELD CLOSE KESWICK, VA 22947			NELSON JR, MILTON	
			ART UNIT	PAPER NUMBER
			3636	
DATE MAILED: 11/10/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/824,533

Applicant(s)

BERGER, KARLA KLUMPP

Examiner

Milton Nelson, Jr.

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 13-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11 and 12 is/are rejected.
- 7) ☒ Claim(s) 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Restriction

Non-elected claims 13-21 remain withdrawn from further consideration.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4, 7 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin (6866288) in view of any of Brim (5022420) or Gillins (5967601) or Sansing (4948197).

The primary reference shows all claimed features of the instant invention with the exception of the capacity of non-destructive snap attachment (claim 1) and disengagement (claim 2) of the headrest assembly to and from the wheelchair uprights; a headrest height adjuster (claim 7); and a headrest depth adjuster (claim 12). Note the headrest assembly (28). Note that the ends of the assembly are removably inserted into the sleeves (26b). Also note the substantially horizontally extending and substantially rigid lateral head support that is integral to the horizontal member (this is

represented by the rearwardly extending horizontal portion of 28, as shown in Figure 3). In the primary reference, note that the lateral head support comprises a pair of opposing head supports

Each of the secondary reference conventionally teaches providing an assembly with means for non-destructive snap engagement and disengagement to the assembly to a pair of uprights. In Brim, note means (34, 35). In Gillins, note means (26). In Sansing, note means (65, 66). Note that each of the means also provides (by way of its selective detachability) the capacity for height and depth adjustment of the item that it supports.

It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify the primary reference in view of the teachings of any of the secondary references by substituting the snap means at the ends of the headrest assembly in place of the sleeves. Such enhances selective attachment (claim 1) and detachment (claim 2) of the headrest assembly at various locations on the uprights or on other supports, including at various heights (claim 7) and depths (claim 12).

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Martin (6866288) in view of any of Brim (5022420) or Gillins (596.7601) or Sansing (4948197), as applied to claim 1, above, and further in view of either Lin (6193252) or Hamann (6102475).

The primary reference, as modified above, shows all claimed features of the instant invention with the exception of the lateral head support shaped in a partial "S" configuration.

Lin conventionally teaches providing a horizontal support structure (1) shaped in a partial "S" configuration.

It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to further modify the primary reference in view of the teachings of the Lin by configuring the horizontally extending lateral head support shaped in a partial "S" configuration. This modification provides an alternate, equivalent configuration for the lateral head support while maintaining its horizontal extension. The use of an "S" shape provides no advantages over an essentially straight shape for the horizontally extending lateral head support, as either shape performs equally as well as the other. This merely represents a matter of choice in design.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Martin (6866288) in view of any of Brim (5022420) or Gillins (596.7601) or Sansing (4948197), as applied to claim 1, above, and further in view of Hamann (6102475).

The primary reference, as modified above, shows all claimed features of the instant invention with the exception of the lateral head support shaped in a partial "S" configuration.

Hamann conventionally teaches providing a horizontal support structure (150H) shaped in a partial "S" configuration.

It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to further modify the primary reference in view of the teachings of the Hamann by configuring the horizontally extending lateral head support shaped in a partial "S" configuration. This modification provides an alternate, equivalent configuration for the lateral head support while maintaining its horizontal extension. The use of an "S" shape provides no advantages over an essentially straight shape for the horizontally extending lateral head support, as either shape performs equally as well as the other. This merely represents a matter of choice in design.

Claims 5, 6 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin (6866288) in view of any of Brim (5022420) or Gillins (5967601) or Sansing (4948197), as applied to claim 1, above, and further in view of Howard (4030781).

The primary reference, as modified above, shows all claimed features of the instant invention with the exception of the headrest assembly comprising a head pad (claim 5); the headrest assembly comprising a removable head pad (claim 6); and the headrest assembly comprising a removable washable head pad (claim 11).

Howard conventionally teaches providing a headrest assembly as comprising a head pad (12); the headrest assembly comprising a removable head pad (12 is removable by way of 16, 18); and the headrest assembly comprising a removable washable head pad (removable by way of 16, 18, and washable).

Regarding claim 5, it would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to further modify the primary reference in

view of the teachings of Howard by adding a head pad between the uprights of the headrest assembly. Such conventionally enhances user comfort.

Regarding claim 6, it would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to further modify the primary reference in view of the teachings of Howard by adding a removable head pad between the uprights of the headrest assembly. Such conventionally enhances user comfort and provides a means for selectively removing the head pad from the assembly.

Regarding claim 11, it would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to further modify the primary reference in view of the teachings of Howard by adding a removable and washable head pad between the uprights of the headrest assembly. Such conventionally enhances user comfort and provides a means for selectively removing the head pad from the assembly. Also provided is a configuration for washing the head pad without damage thereto for enhanced cleanliness.

Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin (6866288) in view of any of Brim (5022420) or Gillins (5967601) or Sansing (4948197), as applied to claim 1, above, and further in view of JP (2001327541).

The primary reference, as modified above, shows all claimed features of the instant invention with the exception of the headrest assembly comprising a headrest width adjuster (claim 8); and a headrest width adjuster located adjacent a head pad (claim 9).

JP (2001327541) conventionally teaches providing a headrest assembly as comprising a headrest width adjuster (311, 312, 321); and a headrest width adjuster located adjacent a head pad (see Figure 3).

Regarding claim 8, it would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to further modify the primary reference in view of the teachings of JP (2001327541) by configuring the headrest assembly upper bar as shown in Figure 3, and adding the headrest width adjuster. Such provides selective adaptability of the assembly to supporting structure of varying widths.

Regarding claim 9, it would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to further modify the primary reference in view of the teachings of JP (2001327541) by configuring the headrest assembly upper bar as shown in Figure 3, and adding the headrest width adjuster and head pad (2) located adjacent thereto. Such provides selective adaptability of the assembly to supporting structure of varying widths, while also enhancing user comfort.

Allowable Subject Matter

Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Amendment/Arguments

Applicant's response has been fully considered. Remaining issues are described in the above sections. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. The incentive for combination is outlined in the text of the rejections.

Regarding Martin, Applicant argues that adding snap means to the terminal ends that are designed to be inserted with sleeves 26b, one could no longer insert the terminal ends within sleeves 26b. Adding the snap means is done by substituting the snap means for the sleeves. Dual attachment means (i.e. snap means and sleeves) are not necessary. Adding the snap means fails to negatively effect the process of converting the wheelchair of Martin to a table, as is argued by the Applicant. The addition (i.e. substitution) of the snap means in no way renders Martin's device inoperative.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references.

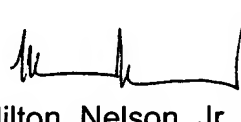
Conclusion

This Office action has not been made final since it includes a new grounds of rejection not necessitated by Applicant's amendment.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Milton Nelson, Jr. whose telephone number is (571) 272-6861. The examiner can normally be reached on Monday-Wednesday, and alternate Fridays 5:30-3:00.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Milton Nelson, Jr.
Primary Examiner
Art Unit 3636

mn
November 8, 2005